(b)   replicating the staging content to at least first and second temporary directories;

(c)   transferring the staging content from the staging server to first and second production servers associated with the first and second temporary directories, respectively, for publication at substantially the same time; and

(d)   providing the transferred staging content to the content users of the computer network in response to requests routed to either of the first and second production servers from the content users.

REMARKS

Claims 1-22, 24-31, 33-41, 43-46 and 48-54 remain pending in this application for consideration. Claims 1, 14, 30, 37, 41, 46 and 51 have been amended to clarify that the staging content is transferred from the staging server to first and second (or a plurality of) production servers for publication at substantially the same time. In addition, claims 1 and 14 have been amended to delete the reference to "an administrator" (as discussed in Section II.A below). Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Claims 1-22, 24-31, 33-41, 43-46 and 48-54 have been finally rejected under 35 U.S.C. §§ 112, 102 and 103. Applicant respectfully submits that these claims, as amended, are allowable and requests reconsideration of the claim rejections for the reasons discussed below.

A.   Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 1 and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner contends that the wherein

clause that refers to "an administrator" is unclear. In an effort to facilitate allowance of the

application, claims 1 and 14 have been amended to delete the reference to "an administrator."

Accordingly, Applicant respectfully submits that the rejection of claims 1 and 14 under 35

U.S.C. § 112, second paragraph, should be withdrawn.

The Examiner also rejected claims 1, 30, 41 and 46 under 35 U.S.C. § 112,

second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention. Specifically, the Examiner contends that

the phrase "substantially the same time" is unclear. It is well established, however, that the term

"substantially" is not indefinite when it "serves reasonably to describe the subject matter so that

its scope would be understood by persons in the field of the invention." Verve L.L.C. v. Crane

Cams Inc., 65 U.S.P.Q.2d 1051(Fed. Cir. 2002); see also M.P.E.P. 2173.05(b)(D) (referencing

uses of the term "substantially" found to be definite). In the present case, one of ordinary skill in

the art would understand the meaning of the phrase "substantially the same time" in the context

of the claimed invention (i.e., the staging content is transferred from the staging server to first

and second (or a plurality of) production servers for publication at either the exact same time or

nearly the same time).

In the Advisory Action, the Examiner contends that the words "substantially" and

"same" have contrary meanings that when used together are not clear. Applicant respectfully

disagrees. The phrase "substantially the same time" as used in this context is very similar to the

use of the phrase "substantially constant wall thickness," which the Federal Circuit found to be

definite in the Verve case cited above. Just as the words "substantially" and "constant" have a

definite meaning when used together, so do the words "substantially" and "same." Specifically,

as stated above, one of ordinary skill in the art would understand the meaning of the phrase

"substantially the same time" in the context of the claimed invention to mean that the staging

content is transferred from the staging server to first and second (or a plurality of) production

servers for publication at either the exact same time or nearly the same time.

Accordingly, Applicant respectfully submits that the use of the phrase

"substantially the same time" in claims 1, 30, 41 and 46 is definite and the rejection under 35

U.S.C. § 112, second paragraph, should be withdrawn.

B.   Rejection Under 35 U.S.C. § 102

The Examiner rejected claims 1, 14, 37 and 41 under 35 U.S.C. § 102 as being

anticipated by U.S. Patent No. 6,026,371 to Beck et al. ("Beck"). Applicant respectfully submits

that claims 1, 14, 37 and 41 are not anticipated by Beck. Specifically, Beck does not disclose or

suggest the transfer of staging content from a staging server to <u>first and second (or a plurality of)</u>

<u>production servers for publication at substantially the same time</u>, as required by claims 1, 14, 37

and 41. Rather, Beck discloses the exportation of an advertisement from a staging database to a

<u>single</u> production database. In the Advisory Action, the Examiner contends that col. 3, lines 28-

34 of the Beck patent discloses the transfer of staging content to numerous production servers.

Not true. The cited language clearly discloses a single production database and a single staging

database.

Further, Beck does not disclose or suggest a firewall operable to limit access to

the staging server, wherein a <u>first user</u> associated with a <u>first access level</u> is allowed to control

generation, editing and/or testing of the staging content, and wherein a <u>second user</u> associated

with a <u>second access level</u> is allowed to control transfer of the staging content from the staging

server to the production servers, as required by claim 37. Rather, Beck discloses that an

advertisement can be edited by a variety of sources, such as a business, a publisher, or anyone

providing the Web-based directory listing. Beck does not disclose any details as to who controls the exportation of the staging content to the production database or how the exportation is accomplished. In the Advisory Action, the Examiner contends that Beck would include a firewall or security to insure users could not alter the data. This is not the <u>claimed</u> limitation. Rather, the claim 37 requires that the firewall is operable to limit access to the staging server, wherein a <u>first user</u> associated with a <u>first access level</u> is allowed to control generation, editing and/or testing of the staging content, and wherein a <u>second user</u> associated with a <u>second access level</u> is allowed to control transfer of the staging content from the staging server to the production servers.

Still further, Beck does not disclose or suggest replacing the staging content transferred to the plurality of production servers with <u>prior production content for publication at substantially the same time in response to a rollback command</u>, as required by claim 41. Rather, Beck merely discloses that an advertisement can be exported to a single production database after it has been previewed on the staging database. In the Advisory Action, the Examiner contends that "[p]ublish and rollback commands read on update data as requested by the business or software of Beck." Applicant does not understand the Examiner's contention on this issue. The Examiner does not cite to a specific portion of Beck that discloses the claimed limitation and, according to Applicant's reading of Beck, Beck clearly does <u>not</u> disclose the limitation <u>as claimed</u>.

Accordingly, Applicant respectfully submits that claims 1, 14, 37 and 41 are not anticipated by Beck and the rejection under 35 U.S.C. § 102 should be withdrawn.

C.   Rejections Under 35 U.S.C. § 103

1.   Butman and Reisman

The Examiner continues to reject claims 1, 5, 7, 13-16, 19, 25, 33-34, 38, 41, 46

and 52 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,867,667 to Butman

et al. ("Butman") in view of U.S. Patent No. 6,125,388 to Reisman ("Reisman"). Applicant

respectfully submits that a prima facie case of obviousness for rejecting these claims has not

been established. The cited references do not disclose or suggest Applicant's claimed invention.

Furthermore, these cited references are not properly combinable. Still further, even if these cited

reference are combined, they do not disclose or suggest Applicant's claimed invention. The

Patent and Trademark Office's burden of establishing a prima facie case of obviousness is not

met unless "'the teachings from the prior art itself would appear to have suggested the claimed

subject matter to a person of ordinary skill in the art.'" In re Bell, 26 U.S.P.Q. 2d 1529, 1531

(Fed. Cir. 1993)(quoting In re Rinehart, 189 U.S.P.Q. 143,147 (C.C.P.A. 1976)).

First, neither Butman nor Reisman disclose or suggest the transfer of staging

content from a staging server to first and second (or a plurality of) production servers for

publication at substantially the same time, as claimed by Applicant. Rather, Butman discloses a

system wherein a client side communications server is able to send information to other client

side communications servers by communicating directly with an intermediate domain

communications server. Neither the domain communications server nor the client side

communications servers are used as staging servers. In addition, the information sent between

client side communications servers through the domain communications server is not published

at substantially the same time. Reisman merely discloses an information transport component

that can be used to automate the mass distribution of updates to a wide user base. It does not

disclose a staging server or the transfer of information to multiple production servers for publication at substantially the same time. Thus, Applicant's claimed invention is clearly distinguishable from Butman and Reisman.

Furthermore, "[b]efore the PTO may combine the disclosures of two or more prior art references in order to establish prima facie obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art." In re Jones, 21 U.S.P.Q. 2d 1941, 1943-44 (Fed. Cir. 1992). If there is no technological motivation for modifying a reference, then the reference should not be part of a § 103 rejection.

There is no motivation to combine Butman and Reisman. Butman discloses a system that creates an intelligent extranet to link the client side communications servers of a limited number of member corporate clients. By contrast, Reisman discloses the automated mass distribution of updates to a wide user base (*e.g.*, for the mass distribution of current issues of an online magazine). Nothing in either reference suggests that the client side communications servers located at the limited number of member corporate clients of Butman could be modified in accordance with the mass distribution component of Reisman.

Still further, even if these references are combined, the combination of Butman and Reisman does not disclose or suggest Applicant's claimed invention. Specifically, the combination does not disclose or suggest the transfer of staging content from a staging server to first and second (or a plurality of) production servers for publication at substantially the same time, as claimed by Applicant.

Because the Examiner has failed to meet his burden of establishing a prima facie case of obviousness, Applicant respectfully requests that claims 1, 5, 7, 13-16, 19, 25, 33-34, 38, 41, 46 and 52 be allowed.

2.   Ferrel and Chang

The Examiner also continues to reject claims 1-22, 24-31, 33-41, 43-46 and 48-54 under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 6,199,082 to Ferrel et al. ("Ferrel") in view of U.S. Patent No. 6,134,582 to Chang et al. ("Chang"). Applicant respectfully submits that a prima facie case of obviousness for rejecting these claims has not been established. The cited references do not disclose or suggest Applicant's claimed invention. Furthermore, these cited references are not properly combinable. Still further, even if these cited reference are combined, they do not disclose or suggest Applicant's claimed invention. The Patent and Trademark Office's burden of establishing a prima facie case of obviousness is not met unless "'the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.'" In re Bell, 26 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1993)(quoting In re Rinehart, 189 U.S.P.Q. 143,147 (C.C.P.A. 1976)).

First, neither Ferrel nor Chang disclose or suggest the transfer of staging content from a staging server to first and second (or a plurality of) production servers for publication at substantially the same time, as claimed by Applicant. Rather, Ferrel discloses a multimedia publishing system that includes a server located at a public distribution point that stores the layout and content components of a publication. This server is not a staging server, and the layout and content components of the publication are not transferred to production servers for publication at substantially the same time. Chang merely discloses a system that allows an end user to schedule the download of data over the Internet. It does not disclose a staging server or

12

the transfer of information to multiple production servers for publication at substantially the same time. Thus, Applicant's claimed invention is clearly distinguishable from Ferrel and Chang.

Also, neither Ferrel nor Chang disclose or suggest a staging server having restricted access, wherein a first user associated with a first access level is allowed to control generation, editing and/or testing of the staging content, and wherein a second user associated with a second access level is allowed to control transfer of the staging content from the staging server to the production servers, as required by claims 30-31 and 33-40. In addition, neither Ferrel nor Chang even remotely disclose or suggest replacing staging content transferred to a plurality of production servers with prior production content for publication at substantially the same time in response to a rollback command, as required by claims 41, 43-46 and 48-50. Therefore, these claims can be further distinguished from Ferrel and Chang.

Furthermore, "[b]efore the PTO may combine the disclosures of two or more prior art references in order to establish prima facie obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art." In re Jones, 21 U.S.P.Q. 2d 1941, 1943-44 (Fed. Cir. 1992). If there is no technological motivation for modifying a reference, then the reference should not be part of a § 103 rejection.

There is no motivation to combine Ferrel and Chang. Ferrel discloses a server located at a public distribution point. By contrast, Chang discloses a system that can be used by an end user to schedule the download of data over the Internet. Nothing in either reference suggests that the server of Ferrel could be modified in accordance with the end user system of Chang.

13

Still further, even if these references are combined, the combination of Ferrel and Chang does not disclose or suggest Applicant's claimed invention. Specifically, the combination does not disclose or suggest: (1) the transfer of staging content from a staging server to first and second (or a plurality of) production servers for publication at substantially the same time; or (2) a staging server having restricted access, wherein a first user associated with a first access level is allowed to control generation, editing and/or testing of the staging content, and wherein a second user associated with a second access level is allowed to control transfer of the staging content from the staging server to the production servers; or (3) replacing staging content transferred to a plurality of production servers with prior production content for publication at substantially the same time in response to a rollback command.

Because the Examiner has failed to meet his burden of establishing a <u>prima facie</u> case of obviousness, Applicant respectfully requests that claims 1-22, 24-31, 33-41, 43-46 and 48-54 be allowed.

<div align="center">*   *   *   *   *</div>

In view of the foregoing amendments and remarks, it is respectfully submitted that the claims are now in condition for allowance and eventual issuance, and such action is respectfully requested. Should the Examiner have any further questions or comments that need be addressed in order to obtain allowance, he is invited to contact the undersigned attorney at the number listed below.

Acknowledgement of receipt is respectfully requested.

Respectfully submitted,

By: ___Judith L. Carlsen___

Judith L. Carlson, Reg. No. 41,904
STINSON, MAG & FIZZELL, P.C.
1201 Walnut Street, Suite 2800
P.O. Box 419251
Kansas City, MO 64141-6251
Telephone: (816) 842-8600
Facsimile: (816) 691-3495

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claims 1, 14, 30, 37, 41, 46 and 51 have been amended as follows:

1. (Four Times Amended) A system for publishing network content, the system comprising:

(a)   first and second production servers wherein each production server provides

production content to content users of a computer network in response to requests routed to the

production server from the content users;

(c)   a staging server operatively connected to each of the first and second production

servers, wherein <u>staging content is generated, edited and/or tested</u> [an administrator is able to

generate, edit and/or test staging content] on the staging server and wherein the staging content is

automatically transferred from the staging server to the first and second production servers <u>for</u>

<u>publication</u> at substantially the same time in response to a publish command received on the

staging server; and

(c)   wherein the transferred staging content replaces the production content on the

production server such that the transferred staging content becomes subsequent production

content accessible by the content users of the computer network, and wherein access to the

staging server is limited such that the staging content is not accessible by the content users prior

to the transfer to the production server.

14.   (Four Times Amended) A method for publishing content on a computer network, the

method comprising the steps of:

(a)   providing a staging server wherein <u>staging content is generated, edited and/or</u>

<u>tested</u> [an administrator is able to generate, edit and/or test staging content] on the staging server;

(b)   limiting access to the staging server such that the staging content is not accessible by content users of the computer network;

(c)   receiving a publish command on the staging server;

(d)   automatically transferring the staging content from the staging server to first and second production servers for publication at substantially the same time in response to step (c);

(e)   replacing production content on the first and second production servers with the transferred staging content such that the transferred staging content becomes subsequent production content; and

(f)   providing the subsequent production content to the content users of the computer network in response to requests routed to either of the first and second production servers from the content users.

30.   (Four Times Amended) A method for publishing content on a computer network, the method comprising the steps of:

(a)   providing a staging server on the computer network;

(b)   limiting access to the staging server such that the server is not accessible by content users of the computer network, the access comprising at least first and second access levels;

(c)   generating staging content on the staging server;

(d)   restricting step (c) in response to a command associated with the first access level;

(e)   receiving a publish command on the staging server;

(f)   automatically transferring the generated staging content from the staging server to

first and second production servers <u>for publication</u> at substantially the same time in response to

step (e); and

(g)   restricting step (f) in response to a command associated with the second access

level.

37.   (Three Times Amended) A system for publishing content on a computer network, the

system comprising:

a staging server and associated software comprising a staging area on the computer

network, the staging area operable to allow generation, editing and/or testing of staging content

and transfer of the staging content from the staging area to a plurality of production areas <u>for</u>

<u>publication</u> at substantially the same time;

a firewall operable to limit access to the staging area to at least two access levels such

that the staging area is not accessible by content users of the computer network, the firewall

operatively connected to the staging server; and

wherein a first user associated with a first of the at least two access levels is allowed to

control generation, editing and/or testing of the staging content, and wherein a second user

associated with a second of the at least two access levels is allowed to control transfer of the

staging content from the staging area to the production areas.

41.   (Three Times Amended) A method for publishing content on a computer network, the

method comprising the steps of:

18

(a)   providing a staging server and a plurality of production servers on the computer network, the staging server associated with staging content and each of the production servers associated with production content, wherein the staging content is not accessible on the staging server by content users of the computer network;

(b)   replacing the production content on each of the production servers with the staging content for publication at substantially the same time in response to a publish command associated with the staging server whereby the staging content becomes accessible on the production servers by the content users of the computer network; and

(c)   replacing the staging content on each of the production servers with the production content for publication at substantially the same time in response to a rollback command associated with the staging server whereby the production content is accessible on the production servers by the content users of the computer network.

46.   (Three Times Amended) A system for publishing content on a computer network, the system comprising:

a staging server associated with the computer network and with staging content, wherein access to the staging server is limited such that the staging content is not accessible by content users of the computer network;

a plurality of production servers wherein each production server is associated with the computer network and with production content that is accessible by the content users of the computer network;

a staging server user interface that allows a user to select a publish command associated with replacement of the production content on each of the production servers with the staging content <u>for publication</u> at substantially the same time; and

wherein the staging server user interface also allows the user to select a rollback command associated with replacement of the staging content on each of the production servers with the production content <u>for publication</u> at substantially the same time.

51.   (Three Times Amended) A method for publishing content on a computer network, the method comprising the steps of:

(a)   generating, editing and/or testing staging content on a staging server, wherein access to the staging server is limited such that the staging content is not accessible on the staging server by content users of the computer network;

(b)   replicating the staging content to at least first and second temporary directories;

(c)   transferring [substantially simultaneously] the staging content from the staging server to first and second production servers associated with the first and second temporary directories, respectively<u>, for publication at substantially the same time</u>; and

(d)   providing the transferred staging content to the content users of the computer network in response to requests routed to either of the first and second production servers from the content users.